

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LANDRY’S, INC., as Successor in Interest to	§	
LANDRY’S MANAGEMENT, LP,	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. _____
	§	
THE INSURANCE COMPANY OF THE	§	
STATE OF PENNSYLVANIA,	§	
Defendant.	§	

DEFENDANT’S NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Defendant The Insurance Company of the State of Pennsylvania (“ICSOP”) files this notice of removal on the basis of diversity jurisdiction, showing the following grounds for removal:

**I.
BACKGROUND**

1. ICSOP is a defendant in a civil action pending in the 234th Judicial District Court in Harris County, Texas, styled *Landry’s, Inc., as Successor in Interest to Landry’s Management, LP v. The Insurance Company of the State of Pennsylvania*, Cause No. 2018-45222.

2. This action commenced on July 6, 2016. Plaintiff Landry’s, Inc., as Successor in Interest to Landry’s Management, LP (“Landry’s”) first served defendant ICSOP with the Harris County, Texas, citation and petition on July 13, 2018. Therefore, this notice of removal is timely filed under 28 U.S.C. Section 1446(b) within thirty (30) days of receipt of the summons and initial pleading setting forth the claim for relief.

3. All pleadings, process, orders, and other filings served upon defendant in the state court action are attached to this Notice as required by 28 U.S.C. Section 1446(a) and Local Rule CV-81. *See* Index of Matters Being Filed, attached hereto. Attached hereto as Exhibit “A” is the state court docket sheet. Plaintiff’s Original Petition and Request for Disclosure is attached as Exhibit “B”. The state court Civil Process Pick-Up Form is attached as Exhibit “C”. The Affidavit of Service on The Insurance Company of the State of Pennsylvania is attached as Exhibit “D”. ICSOP’s answer is attached as Exhibit “E.” A copy of this Notice is also concurrently being filed with the state court and served upon the plaintiff.

4. Venue is proper in this Court under 28 U.S.C. Section 1441(a) because this district and division embrace Harris County, Texas, the place where the removed action has been pending.

II.

BASIS FOR REMOVAL

5. Removal is proper based on diversity of citizenship under 28 U.S.C. Sections 1332(a), 1441(a) and 1446. This is a civil action between citizens of different states, and the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

A. The Proper Parties are of Diverse Citizenship

6. Plaintiff Landry’s is a Delaware corporation and has its principal place of business in Harris County, Texas. Exhibit “B” at ¶3.

7. Defendant ICSOP is an Illinois corporation with its principal place of business in New York, New York. Exhibit “B” at ¶4. The plaintiff affirmatively pleads that the parties are citizens of different states for removal under 28 U.S.C. Section 1332(a).

B. The Amount in Controversy Exceeds \$75,000.00

8. Landry's petition alleges that it seeks damages in excess of \$1,000,000.00. Exhibit "B" at ¶2. The plaintiff's affirmative pleading clearly demonstrates that the amount in controversy in this case exceeds the jurisdictional requirements for removal based on diversity. 28 U.S.C. Section 1332(a).

C. Removal is Procedurally Correct

9. ICSOP was served with plaintiff's original petition and citation on July 13, 2018. This notice of removal is filed within the 30-day time period required by 28 U.S.C. Section 1446(b).

10. Under 28 U.S.C. Section 1441(a), venue of the removed action is proper in this Court as the district and division embracing the place where the state action is pending, which is Harris County, Texas.

11. Pursuant to 28 U.S.C. Section 1446(a), all pleadings, process, orders, and all other filings in the state court action are attached to this Notice.

12. ICSOP, the removing party, will promptly give adverse parties written notice of the filing of this Notice of Removal as required by 28 U.S.C. Section 1446(d). ICSOP will promptly file a copy of this Notice of Removal with the clerk of the 234th Judicial District Court in Harris County, Texas, where the action is pending, also pursuant to 28 U.S.C. Section 1446(d).

**III.
PRAYER**

WHEREFORE, defendant The Insurance Company of the State of Pennsylvania, pursuant to 28 U.S.C. Section 1446 and Local Rule CV-81, properly removes the case styled

Landry's, Inc., as Successor in Interest to Landry's Management, LP v. The Insurance Company of the State of Pennsylvania, Cause No. 2018-45222, in the 234th Judicial District Court in Harris County, Texas to this Court for trial and determination.

Respectfully submitted,

s/Ellen Van Meir

Ellen Van Meir

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COUNSEL FOR DEFENDANT

THE INSURANCE COMPANY OF

THE STATE OF PENNSYLVANIA

CERTIFICATE OF SERVICE

This is to certify that on August 3, 2018, a true and correct copy of the foregoing was sent via electronic transmission to plaintiff's counsel of record, Micah E. Skidmore and Natalie DuBose, HAYNES & BOONE, LLP, 2323 Victory Avenue, Suite 700, Dallas, Texas, 75219.

s/Ellen Van Meir

Ellen Van Meir

Mariah B. Quiroz